

Martin, Michael David-8-10-04.txt

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1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE MIDDLE DISTRICT OF ALABAMA  
3 NORTHERN DIVISION  
4 GRAND JURY  
5  
6  
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8 IN RE:

9 GRAND JURY INVESTIGATION CRC 03-0233

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15 BE IT KNOWN that on Tuesday, August 10, 2004,  
16 the testimony of MICHAEL DAVID MARTIN was taken before  
17 the Grand Jury of the United States District Court for  
18 the Middle District of Alabama, Northern Division, in  
19 the Grand Jury Room, United States Courthouse, One  
20 Church Street, Montgomery, Alabama; LOUIS V. FRANKLIN  
21 and JOHN GIBBS interrogating.

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1 MICHAEL DAVID MARTIN

2 The witness, having first been sworn to speak  
3 the truth, the whole truth and nothing but the truth,  
4 testified as follows:

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EXAMINATION

6 BY MR. FRANKLIN:

7 Q. Mr. Martin, would you spell your full name  
8 and spell your last name for the record, please?

9 A. Michael David Martin, M-A-R-T-I-N.

10 Q. How old are you, Mr. Martin?

11 A. I'm 44.

12 Q. And what do you do for a living?

13 A. I'm self-employed. I'm a private investor.

14 Q. Prior to becoming self-employed, at some  
15 point, did you work for an outfit called HealthSouth?

16 A. I did.

17 Q. Would you tell us what position you had and  
18 how long you worked for that particular entity,  
19 please.

20 A. I began in 1989 as treasurer -- vice  
21 president and treasurer, became CFO in 1997, and left  
22 the company in February of 2000 as CFO.

23 Q. Okay. At some point while you were working  
24 for HealthSouth, did there come a time when you were  
25 approached about raising money to contribute to an

3

1 entity called the Alabama Lottery Education  
2 Foundation?

3 A. Yes.

4 Q. Who approached you within HealthSouth's  
5 organization -- let me ask it this way. At any point,  
6 did Mr. Scrushy approach you and tell you that he  
7 wanted this done?

8 A. Yes.

9 Q. Okay. What did he tell you, as best you can

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10 remember? I know you can't remember verbatim; but as  
11 best you can remember, what did Mr. Scrushy ask you to  
12 do?

13 A. He said that we needed to raise a million  
14 dollars for the lottery and that he -- HealthSouth  
15 could not give the money and he personally could not  
16 give the money. So he asked us -- he wanted me to  
17 help figure out a way to get the money to the -- the  
18 lottery fund.

19 Q. And did you then start trying or making  
20 attempts to raise that money?

21 A. Yes.

22 Q. Now, you did not raise a million dollars, did  
23 you?

24 A. No.

25 Q. At some point, you participated in efforts to

4

1 get \$250,000, though; is that correct?

2 A. That's correct.

3 Q. Tell us what you did in an effort to get that  
4 \$250,000 and have it contributed to the Alabama  
5 Education Lottery or the Alabama Education Lottery  
6 Foundation.

7 A. Well, at the instruction of Mr. Scrushy, I  
8 contacted one of our investment bankers, UBS, and a  
9 fellow by the name of Bill McGahan. He had directed  
10 me -- Mr. Scrushy -- to get the money from them, the  
11 full million. And I requested it from them.

12 Q. Okay. Now, when you initially made this  
13 request to Mr. McGahan, what did Mr. McGahan say to  
14 you and you say to him?

15           A.     He said that he would try to do it, he had to  
16 check on it. And he came back to me and said his  
17 company -- it was against his company's policy to do  
18 it.

19           Q.     Did you relay that response to Mr. Scrushy,  
20 Mr. McGahan telling you that he didn't -- he couldn't  
21 do it because of company policy?

22           A.     Yes, I did.

23           Q.     And what did Mr. Scrushy say to you when you  
24 delivered that message?

25           A.     Well, you need to tell them that they're

5

1 going to be fired if they don't raise that money.

2           Q.     Did you then go back and have additional  
3 conversations with Mr. McGahan?

4           A.     I did.

5           Q.     In terms of the tone of the conversations you  
6 had with Mr. McGahan after Mr. Scrushy sent you back,  
7 how would you describe the tone of your conversation?

8           A.     Very harsh. I told him that they would be  
9 fired and he would be F out of business.

10          Q.     Okay. Now, and I know you're uncomfortable  
11 with using the word; but I would ask that you go ahead  
12 and, as best you can remember, tell us what word --  
13 harsh words you used.

14          A.     I told him he would be fucked and he would be  
15 fired --

16          Q.     All right.

17          A.     -- if they didn't raise the money.

18          Q.     How many conversations do you think you  
19 had -- and I know you don't remember the exact amount,

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20 but how many conversations do you think you may have  
21 had with Mr. McGahan after he had told you that he  
22 couldn't do it and you had relayed that message to  
23 Mr. Scrushy and Mr. Scrushy basically sent you back to  
24 Mr. McGahan?  
25 A. Between a half dozen and a dozen

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1 conversations at least, maybe more.

2 Q. All right. At some point did Mr. McGahan  
3 agree to raise some money for Mr. Scrushy to  
4 contribute to the Alabama Education Lottery  
5 Foundation?

6 A. Yes.

7 Q. Okay. How much money was agreed upon? And  
8 tell us how that came about, please.

9 A. Well, it was -- he had a customer, Integrated  
10 Health Services, that owed him --

11 Q. Let me stop you for a second.

12 A. Okay.

13 Q. When you say he --

14 A. McGahan.

15 Q. -- give us a name.

16 A. Mr. McGahan --

17 Q. Okay.

18 A. -- had a customer, Integrated Health  
19 Services, that owed him I think about \$500,000, some  
20 kind of banking fee. So as opposed to he write the  
21 check, he agreed to -- to -- what's the word --  
22 forgive that amount that they owed him and then, in  
23 turn, they wrote the check directly to the -- to the  
24 fund. And that was 250,000.

25 Q. All right. Martin, Michael David-8-10-04.txt  
After that -- well, let me back

7

1 up. whose idea was it to use the debt of IHS or to  
2 use IHS to do that?

3 A. It was Mr. McGahan's.

4 Q. Okay. He gave that idea to you?

5 A. Yes.

6 Q. Okay. And once the -- to put the ball in  
7 motion, did at some point you receive or did somebody  
8 send a check to HealthSouth for \$250,000?

9 A. They did.

10 Q. Have you ever seen that check?

11 A. I did.

12 Q. Okay. And how much was it again?

13 A. \$250,000.

14 Q. When did you first see that check?

15 A. When -- immediately once it arrived.

16 Q. Okay. Who gave it to you?

17 A. Leif Murphy. He was my assistant.

18 Q. Okay. He worked for HealthSouth?

19 A. He was our treasurer.

20 Q. At the time that you received that check,  
21 your title would have been what?

22 A. Executive vice president and chief financial  
23 officer and board member.

24 Q. And Leif Murphy, his title would have been  
25 what?

8

1 A. I don't recall if it was vice president or  
2 senior vice president or even group vice president,  
3 but treasurer was his title.

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4 Q. Was there some sense of urgency with respect  
5 to getting that money from Integrated Health Services  
6 to HealthSouth?

7 A. Yes.

8 Q. Did you have any conversations with  
9 Mr. Scrushy about the urgency of getting that check to  
10 HealthSouth?

11 A. Yes.

12 Q. What did he tell you about it? What did he  
13 say to you in that regard?

14 A. Well, in particular, there was an urgency  
15 because he had a meeting with the Governor. And he  
16 wanted to make sure that we did not directly -- or  
17 Integrated Health Services did not directly mail that  
18 check to the Governor, because Mr. Scrushy wanted to  
19 personally hand that check to the Governor in this  
20 meeting that created the urgency.

21 Q. Okay. And did Mr. Scrushy tell you he wanted  
22 to personally deliver that check to the Governor?

23 A. Yes, he did.

24 Q. And when you got that check, how long do you  
25 think you held onto it before you gave it to the next

9

1 person?

2 A. To Mr. Scrushy?

3 Q. Yes, sir.

4 A. I walked immediately over to his office and  
5 handed it to him.

6 Q. Okay. You don't remember what day that  
7 occurred, do you?

8 A. No.

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9 Q. Okay. Do you remember about what -- what  
10 year it was?

11 A. It was in 1999.

12 Q. Okay. Do you remember -- give me a month as  
13 close as you can remember.

14 A. Sometime either late summer or early fall.

15 Q. All right. Let me ask it this way. Has  
16 there been any other occasion during the time that you  
17 have employed -- been employed with HealthSouth that  
18 you ever gave Mr. Scrushy a \$250,000 check that was  
19 supposed to be delivered to the then-governor of the  
20 state of Alabama?

21 A. No, sir.

22 Q. That was the only occasion?

23 A. That was the only occasion.

24 Q. And your testimony is that you gave that  
25 check to Mr. Scrushy with the understanding that he

10

1 wanted to personally give it to the then-governor, Don  
2 Siegelman?

3 A. That's correct.

4 MR. FRANKLIN: All right. One second.

5 (Brief pause)

6 Q. Other than -- you've told us about the  
7 conversations that you had with McGahan. Are you  
8 aware of anybody else from HealthSouth talking to  
9 McGahan?

10 A. Regarding?

11 Q. The \$250,000 check.

12 A. I'm pretty sure that Leif Murphy talked to  
13 him about it.



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14 Q. Okay. Did Mr. Scrushy talk to Mr. McGahan at  
15 any point during the time that you-all were talking  
16 back and forth?

17 A. Yes.

18 Q. And how do you know that?

19 A. Because I was present. After he declined to  
20 give the money originally, Mr. Scrushy called him and  
21 threatened to fire him also.

22 MR. GIBBS: That's it.

23 MR. FRANKLIN: Okay. Any questions from  
24 members of the grand jury?

25 MR. GIBBS: Wait just a minute.

11

1 (Off-the-record discussion)

2 EXAMINATION

3 BY MR. GIBBS:

4 Q. Mr. Martin, you told us that Mr. Scrushy was  
5 told -- or got some sort of a message about needing to  
6 raise a million dollars. Did Mr. Scrushy ever tell  
7 you how that came about, who that came from or  
8 through?

9 A. Yes.

10 Q. Can you tell me what he told you?

11 A. It came through our lobbyist, Eric Hanson,  
12 who was with -- I forget the name of his firm now, but  
13 it came through Eric Hanson.

14 MR. GIBBS: Okay.

15 MR. FRANKLIN: That's all I have.

16 MR. GIBBS: That's it.

17 MR. FRANKLIN: Yes, ma'am?

18 GRAND JUROR: Do you know why it was  
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19 important to Mr. Scrushy to deliver that check to the  
20 Governor himself?

21 THE WITNESS: My impression was to -- to  
22 influence the Governor; in particular, to receive a  
23 Certificate of Need Review Board position. But that's  
24 my impression.

25 GRAND JUROR: Okay. Thank you.

12

1 GRAND JUROR: Were you present when Scrushy  
2 delivered the check to the Governor?

3 THE WITNESS: No, ma'am.

4 MR. FRANKLIN: Y'all give me one second,  
5 now. There is one question that I'm trying to  
6 remember.

7 (Brief pause)

8 EXAMINATION

9 BY MR. FRANKLIN:

10 Q. Let me digress just for a minute. Were you  
11 aware of an individual that worked for -- did you know  
12 an individual who worked for HealthSouth whose name  
13 was Jim Goodreau?

14 A. Yes.

15 Q. What was his position with HealthSouth?

16 A. He was head of security and what people  
17 consider Mr. Scrushy's bodyguard.

18 Q. Okay. And did he go everywhere that Scrushy  
19 went all the time? You always saw the two of them  
20 together?

21 A. Yes.

22 Q. Did you ever have an occasion to have a  
23 meeting with Mr. Scrushy and Mr. Goodreau wasn't